



Foreign Agricultural Service

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## **Mexico**

### **Fresh Deciduous Fruit**

# **Mexico Announces a Final Resolution on the Antidumping Investigation on U.S. Apples 2002**

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#### **Report Highlights:**

**On August 12, 2002, the Secretariat of Economy (SE) announced that it did find evidence of damage to the Mexican apple industry from imports of U.S. Red and Golden Delicious apples. As a result, SE announced an imposition of final duties of 46.58 percent on U.S. Red and Golden Delicious imported apples. This compensatory duty is in addition to and independent of the NAFTA safeguard duty on apples (H.S. 0808.10.01), which is 2 percent in-quota and 20 percent out-of-quota.**

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Includes PSD changes: No  
Includes Trade Matrix: No  
Unscheduled Report  
Mexico [MX1], MX

**Introduction:** This report summarizes an announcement published in Mexico's "*Diario Oficial*" (Federal Register) on August 12, 2002.

**Disclaimer:** This summary is based on a *cursory* review of the subject announcement and therefore should not, under any circumstances, be viewed as a definitive reading of the regulation in question, or of its implications for U.S. agricultural export trade interests. In the event of a discrepancy or discrepancies between this summary and the complete regulation or announcement as published in Spanish, the latter shall prevail.

**FAS/Mexico's Executive Summary:** On August 12, 2002, Mexico's Secretariat of Economy (SE) announced in the "*Diario Oficial*" ("Federal Register") the final conclusion of the official anti-dumping investigation against U.S. Red and Golden Delicious imported apples. As a part of its conclusion, SE announced an imposition of final duties of 46.58 percent to U.S. Red and Golden Delicious imported apples. According to the investigation, SE found evidence that the domestic apple industry had suffered damages as a consequence of an important increase in imported U.S. apples that were sold in the Mexican market at discriminatory (i.e., dumping) prices during the period of investigation (January-June 1996). This compensatory duty is in addition to and independent of, the NAFTA safeguard duty on apples (H.S. 0808.10.01), which is 2 percent in-quota and 20 percent out-of-quota.

**Title:** "Final resolution in regard to the antidumping investigation of importation of table apples of the Red Delicious and Golden Delicious varieties, a merchandise classified under tariff section 0808.10.01 of the General Importation and Exportation Tax Act Tariff, originating from the United States of America, regardless of the country from which they come".

**Type of Investigation:** Final Resolution of the Investigation on Antidumping Claims.

### Important Dates

**1. Publication Date:** August 12, 2002

**2. Effective Date:** August 13, 2002

**3. Start of Public Comment Period:** This is a Final Resolution. Consequently there is not a period for additional comments.

**Products Affected:** U.S. Red Delicious apples and its mutations (Starking, Starkrimson, Delicious, Red Chief, Super Chief, Early Chief, Scarlet Spur, Oregon Spur, Ace, Washington Spur, Vallee Spur, Radiant Red Delicious, Midnight, Nured, It Red Delicious, Morgan Spur, and Red Zenith) and Golden Delicious apples. Apples not included in the investigation are the mutations of Golden Delicious and varieties obtained from other crossings, such as Gala, Rome Beauty, Granny Smith, Jonathon, and McIntosh, among others.

**Agency in Charge:** The Secretariat of Economy (SE), International Commercial Practices Unit

**Summary of the Preliminary Resolution's Important Provisions**

The Secretariat of Economy (SE) has determined that it has found evidence of damage to the Mexican apple industry from imports of U.S. Red and Golden Delicious apples. As a result, SE will impose a compensatory duties of 46.58 percent on imported U.S. Red and Golden Delicious apples.

**Conclusion:** Based on the facts contained in the *Diario Oficial* announcement (points 125 to 269) and on the information submitted by the petitioner, importers and exporters, and other information obtained by the investigating authorities, SE concluded that during the period under investigation (January-June 1996), the importation of U.S. Golden Delicious and Red Delicious apples and the latter's mutations, caused damage to the Mexican apple industry. Among the outstanding factors was an increase of such imports under discriminatory price conditions, which had been brought about by the price reduction of such importations. These price reductions had the effect of reducing the prices for the locally produced merchandise. In turn, this caused a deterioration in the domestic production and of its share of Apparent Domestic Consumption, employment, and profits for local producers.

For this reason, the investigating authorities deemed it appropriate to impose a compensatory duty of 46.58 percent on the imports of table apples of the Red Delicious (and its mutations) and Golden Delicious varieties for apples originating in the United States. This was done in accordance with Articles 59 and 62, Section I of the Foreign Trade Act and Article 83, Section I of the Act's Regulations.

**Resolution Decisions:**

I. A compensatory duty of 0 (zero) percent is imposed on imports of table apples of the Golden Delicious and Red Delicious varieties and the latter's mutations, as classified under Tariff Section 0808.1001 of the General Importation and Exportation Tax Act, originating from the United States of America and coming from the companies Price Cold Storage & Packing Company, Inc., and Washington Fruit and Produce Co., in accordance with the following:

- a) Importers of Price Cold Storage & Packing Company, Inc., and Washington Fruit and Produce Co. must certify that the imported apples are originating from those same orchards that these two companies bought from during the period of investigation (January-June 1996). Note: if these two companies want to ship to Mexico, they must continue to buy from the same orchards that they bought from during the investigation period (and for which they submitted data to SE). This certification must be guaranteed through an "orchard certificate", which was included as part of the *Diario Oficial* announcement and is included herein.
- b) The importers will present to the Unit of International Commercial Practices of the Secretariat of Economy, (located at Insurgentes Sur 1940 PB, Colonia Florida, Delegacion Alvaro Obregon, postal code 01030, Mexico, Distrito Federal) during the hours of 9 a.m. - 2 p.m. and within the first ten business days of the months of January, May and September of each year, a report that contains the copies of the orchard certificates of the imports made by those two

companies for that preceding period, copies of the import customs clearance document ("pedimentos"), and the corresponding invoices.

- c) SE can impose compensatory duties on any importer who does not present the above-mentioned report according to the guidelines established above, or who presents an incomplete report, and/or omits information regarding the origin of the imported apples. SE can also impose compensatory duties if the origin of the apples is different than those orchards from which Price Cold Storage & Packing Company Inc., and Washington Fruit and Produce Co. bought during the investigation period (January - June 1996) or if the apples come from companies other than Price Storage & Packing Company, Inc., and Washington Fruit and Produce Co.
- d) SE can verify at any time the truthfulness and accuracy of this information, including doing so through verification visits to the importer and exporter and exporting companies.

II. A compensatory duty of 46.58 percent is imposed on importations of table apples of the Red Delicious (and its mutations) and Golden Delicious varieties, originating from the United States of America and coming from any exporting company different than Price Cold Storage & Packing Company Inc., and Washington Fruit and Produce Co., or from orchards that Price Cold Storage & Packing Company, Inc. and Washington Fruit and Produce Co. did not buy from during the period of investigation (January - June 1996).

III. This compensatory duty will be calculated on the value declared at customs in the relevant customs clearance document; this duty is in addition to the NAFTA safeguard duty on apples.

IV. The Secretariat of Finance and Public Credit (SHCP) will apply the provisional compensatory duty as well as the appropriate NAFTA tariff on apples. A bond may be posted for the payment of the applicable compensatory duties, under the terms of Article 65 of the Foreign Trade Act.

V. According to the provisions of Article 66 of the Foreign Trade Act, table apple imports of Red Delicious (and its mutations) and Golden Delicious varieties will not be subject to compensatory duties (as described in item 273 of the Resolution), if it can be proven that the country of origin is not the United States. Proof of origin will be in accordance with the Agreements establishing country of origin rules for imported merchandise, the provisions for certification of such origin, and the rules regarding compensatory duties, as published in the *Diario Oficial* on the following dates: August 30, 1994, November 11, 1996, October 12, 1998; June 30, 2000, March 1, 2001, March 23, 2001.

**Trade Concerns:** Mexico is the largest market for U.S. apples, with approximately \$125 million worth of apples shipped there annually, principally from the states of the Pacific Northwest. The imposition of this antidumping duty will seriously impede access to the Mexican market for the U.S. apple varieties specified, regardless of the state of origin. As a result, the states of Michigan and Virginia, which are just completing negotiating the phytosanitary terms upon which they would ship to Mexico and were prepared to begin their first shipping season, will now have to pay significant antidumping duties, if they

plan on shipping Red Delicious (and its mutations) and Golden Delicious varieties.

## Background

On December 4, 1996 the Mexican apple growers requested an antidumping investigation against U.S. apples claiming damages to the domestic industry (see MX7020). SE, formerly known as the Secretariat of Commerce (SECOFI), announced in the *Diario Oficial* on March 6, 1997, that it had accepted a petition to investigate an antidumping claim against exports of U.S. Red and Golden Delicious apples to Mexico. The petition was made by the Regional Fruit Growers Association of the State of Chihuahua, which alleged price discrimination and injury during 1994-1995 and 1995-1996. The antidumping investigation was based on the period January 1-June 30, 1996.

On September 1, 1997, SE announced an imposition of preliminary interim duties of 101 percent on imported U.S. Red and Golden Delicious apples. According to the investigation, SE found a significant increase in imported U.S. apples that were sold in the Mexican market at dumping prices. This 101 percent interim compensatory duty was independent of the NAFTA safeguard duty on apples (H.S.0808.10.01) (see MX 7083 and MX 7088).

On May 15, 1998, SE published in the *Diario Oficial* the resolution accepting the reference price agreement proposed by the U.S. apple producers/exporters and the suspension of the antidumping investigation procedures on imported U.S. Red and Golden Delicious apples (see MX 8046).

On August 9, 2002, SE announced in the *Diario Oficial* the termination of the reference price agreement previously negotiated between SE and the U.S. apple industry and in effect from 1998-2002, as well as the resumption of the antidumping investigation which had been suspended in 1998 when both sides agreed to a reference price agreement. On August 12, 2002, SE announced in the *Diario Oficial* the end of the antidumping investigation and the imposition of a 46.58 percent duty on imports of U.S. Red Delicious (and its mutations) and Golden Delicious apples.

## For More Information:

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## Internet Connections

*FAS Mexico Web Site:* We are available at <http://www.atomexico.gob.mx> or visit our headquarter's home page at <http://www.fas.usda.gov> for a complete selection of FAS' worldwide agricultural reporting.

*Useful Mexican Web Sites:* Mexico's equivalent of the Department of Agriculture (SAGARPA) can be found at [www.sagar.gob.mx](http://www.sagar.gob.mx) and Mexico's equivalent of the Department of Commerce (SE) can be found at [www.se.gob.mx](http://www.se.gob.mx). These web sites are mentioned for the readers' convenience but USDA does NOT in any way endorse, guarantee the accuracy of, or necessarily concur with the information

contained on the mentioned sites.

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